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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,920	07/10/2006	Ronny Kiel	016906-0454	8591
22428 7590 01/16/2009 FOLEY AND LARDNER LLP SUITE 500 3000 K STREET NW WASHINGTON, DC 20007				
EXAMINER				
KOSANOVIC, HELENA				
ART UNIT		PAPER NUMBER		
3749				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/562,920

Applicant(s)

KIEL ET AL.

Examiner

HELENA KOSANOVIC

Art Unit

3749

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 November 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 November 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 16-17, 19-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gilles FR 2737156 in view of Kurokawa 6,351,961

Gilles teaches the invention as claimed:

Regarding claim 16, an air conditioning device for a vehicle having a fan (see abstract) an evaporator (as necessarily present element in order to have the cold conditioned air as stated in Abstract);

a distribution space 18, 20 (fig. 1)

control flaps 56, 68, between a first flow passage 18, and a second flow passage 20, wherein the given air stream is configured to be divided the controls flaps such that the generation of a first partial air stream 18, and a second partial air stream 20 is possible.

a mixing chamber 46, wherein the first flow passage opens out into the mixing chamber;

a heat exchanger 34 arranged in the second flow passage for heating the second partial air stream, wherein the second flow passage opens out in the mixing

chamber downstream of the heat exchanger, wherein generation of a mixed air stream from the first and second partial air streams in the mixing chamber is possible (fig. 1);

air exit passages leading from the mixing chamber into different regions of the vehicle's interior, wherein each air exit passage is assigned with a switching flap on a mixing chamber side for controlling an air exit stream from the mixing chamber through the associated air exit passage, wherein at least one of the air exit passages is a defrosting passage 40, used to generate a defrost air (see Abstract) stream directly on an inner side of a vehicle window (necessarily present element, according to Abstract) and opens out at a defrosting nozzle 42 assigned to the vehicle window; at least one bypass passage 68, through which a warm air stream can flow (fig. 1), wherein the at least one bypass passage branches off downstream of the heat exchanger, starting from the second flow passage upstream of the mixing chamber (fig. 1), and opens out directly into the defrosting passage (fig. 1); and

a mixing flap 74 (fig. 1) assigned to the at least one bypass passage for controlling the warm air stream through the bypass passage, wherein the mixing flap and control flaps are arranged axially on a common pivot axle 54,

wherein the mixing flap extends within regions in which the at least one bypass passage runs and the control flaps are formed in regions other than the at least one bypass passage (figs 1-2), and

Regarding claim 17, the mixing flap is coupled to the control flaps (fig. 1).

Regarding claim 18, the mixing flap and control flaps are driven by a common actuator.

Regarding claim 19, the first flow passage is designed as an overflow passage with respect to the second flow passage, within the course of which the control flaps are arranged, and wherein a ratio between the first partial air stream and the second partial air stream is defined by the control flaps arranged in a region of a beginning of the first and second flow passages (fig. 1). The examiner notice that to the extent that the applicant's invention has the first flow passage as a overflow passage, the prior art invention has too, since the same structure provide the same results.

Regarding claim 20, the bypass passage runs such that the bypass passage passes through the first flow passage, and wherein the first flow passage has the bypass passage passing through it in a region of the control flaps (fig. 1).

Regarding claim 21, the mixing and control flaps are articulatively mounted on the common pivot axle 54 by pivot arms (orthogonal on element 74, fig. 2)

Gilles is silent about convex and concave shape of the flaps and about curved arms.

Kurokawa teaches mixing flap 12b curved convexly in cross section and the control flaps 12a are curved concavely in cross section (fig. 2) wherein the arms 16 widened out in a shape of a segment of a circle (fig. 2)

It would have been obvious to one of ordinary skill in the art at the time of the invention to substitute the Gilles flaps with the Kurokawa convex and concave flaps because the substitution of one known element for another would have yielded predictable results of mixing the air with the door flaps.

Claims 22-23 are rejected because the Gilles in view of Kurokawa apparatus is considered to be formed by the method steps, as claimed.

2. Claims 18 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable Gilles FR 2737156 in view of Kurokawa 6,351,961 And further in view of Tsurushima 6,684,137.

Gilles in view of Kurokawa teaches the invention as claimed, but is not specific about common actuator.

Tsurushima teaches regarding claim 4, the mixing flap 11b and control flaps 11Q (fig. 5) are driven by means of a common actuator 32 (fig. 4, col6.II. 35-42).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have the Gilles in view of Kurokawa invention modified with the Tsurushima common actuator in order to have simple construction and thus less expensive device (col. 6, II. 52-55).

Response to Arguments

Applicant's arguments filed 11/19/08 have been fully considered but they are not persuasive.

Regarding argument about the design choice, the examiner applied the Kurokawa reference in this office action and therefore the argument is moot.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **HELENA KOSANOVIC** whose telephone number is (571)272-9059. The examiner can normally be reached on 8:30-5:00, Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steve McAllister can be reached on 571-272-6785. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3749

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/H. K./

Examiner, Art Unit 3749
011409

/Steven B. McAllister/

Supervisory Patent Examiner, Art Unit 3749